

**H.P. State Industrial Development Corporation vs.
M/s Kanwar Pvt. Ltd. & others**

Co.Pet. No.4 of 1994

13.12.2024 Present: Mr. Sanjeev Kuthiala, Senior Advocate with Ms. Amita Chandel, Advocate, for the Official Liquidator

Mr. Mehar Chand Thakur, Advocate, for respondent No.1.

Mr. Atharv Sharma, Advocate, for respondent No.2.

Mr. Ashok Kumar Sood, Senior Advocate with Mr. Khem Raj, Advocate, for respondent No.3.

Mr. Vishal and Mr. Sanjay Kumar Sharma, Advocates, for respondent No.4.

Mr. Naresh K. Gupta and Ms. Anita, Advocates, for respondent No.5.

Mr. Neeraj Sharma and Mr. Ishaan Kashyap, Advocate,s, for the applicant/Tax Recovery Officer in Co. Application No.4 of 2009.

Co. Application No.4 of 2004 in Co. Petition No.4 of 1994

By way of instant application, a prayer in following terms has been made:

“It is therefore, respectfully prayed that this application may kindly be allowed and an amount of Rs. 27,59,328/- on account of arrears of Income Tax may kindly be released in favour of the applicant out of the amount deposited before this Hon'ble Court. Any other or further orders which this Hon'ble Court deem fit, in the facts and circumstances of the case may kindly be passed in favour of the applicant and against the respondent.”

2. Learned counsel for applicant has submitted that the Official Liquidator was obligated under the provisions of Section

178 of the Income Tax Act to give the Assessing Officer a notice about the liquidation of the company for the purposes of further proceedings to be undertaken under said Section. He further submits that the applicant was not aware about the liquidation proceedings in respect of Company-Kanwar Papers Pvt. Ltd. and when they acquired the knowledge of such fact, a request was made to the Liquidator, but the Liquidator asked the Department to first seek condonation of delay from this Court.

3. *Prima facie*, it appears that there has been non-compliance of Section 178 of the Income Tax Act. That being so, this application is disposed of with liberty to the applicant to submit its claim before the Official Liquidator. Once such claim is submitted, the Official Liquidator shall decide the same, in accordance with law within four weeks thereafter. Accordingly, the application is disposed of.

4. List the matter for consideration on other pending applications on 27th December, 2024.

(Satyen Vaidya)
Judge

December 13, 2024
(vt)